## REMARKS

Claims 1-8 and 10-17 were examined and reported in the Office Action. Claims 10-17 are allowed. Claims 1-8 are rejected. Claims 1-2 are amended. Claims 1-8 and 10-17 remain.

Applicants request reconsideration of the application in view of the following remarks.

## I. NO NEW MATTER

Applicant has amended the specification to describe what was originally disclosed in the Figures. As the additional matter describes what is implicit, inherent and intrinsic in the original application, no new matter is added.

## II. IN THE DRAWINGS

Applicant has amended Figures 1, 2 and 5 to place reference numerals next to the jams (96 and 97) and sill (98). Applicant has amended the specification to include these new reference numerals. Approval is respectfully requested.

## III. 35 U.S.C. §102(b)

It is asserted in the Office Action that claims 1-8 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,497,135 issued to Vetter ("Vetter") as advanced in the Advisory Action mailed of July 18, 2002, Paper No. 9 and in the rejection mailed December 31, 2002, Paper No. 13. Applicant respectfully traverses the aforementioned rejections for the following reasons.

According to MPEP §2131, "'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of

terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990))."

Applicants' amended claim 1 contains the limitations of "[a] window operator for controlling the opening and closing movement of a window sash relative to a window frame, the window frame including a sill, a plurality of side jams and a top piece, the window operator comprising a mounting arrangement wherein the window operator is mountable to an element of the window frame, an elongate threaded member mounted with the mounting arrangement, a drive mechanism to apply a rotational movement to the elongate threaded member, a threaded element located on the elongate threaded member, a hinge by which the window sash is hingedly mountable to the window frame, said hinge being connected to the mounting arrangement whereby the hinge is mountable to said element of the window frame, the window operator further comprising a coupling device connected to and moveable in response to movement of the threaded element on the elongate threaded member, the coupling device being further connected to a part of the hinge wherein movement of the coupling device applies a moving force to said part of the hinge."

Applicants' amended claim 2 contains the limitations of "[a] window operator for controlling the movement of a window sash between open and closed positions relative to a window frame, the window frame including a sill, a plurality of side jams and a top piece, the window operator comprising a mounting arrangement and drive transfer mountable in a cavity formed between the window sash and window frame when the window sash is in the closed position such that the mounting arrangement and drive transfer are not visible when the window sash is in the closed position, an operator handle and handle mounting mountable to a surface of the window frame, the operator handle being coupled to the drive transfer and the drive transfer being drivingly coupled to an elongate threaded member mounted with the mounting arrangement, a threaded element located on the elongate threaded member and a hinge connected to the mounting arrangement whereby the hinge is mountable to said window frame, the hinge arrangement comprising a sash mounting and at least one arm pivotally coupled at respective ends to the sash mounting and the mounting arrangement, a sliding element associated with the mounting arrangement and coupled to the sash mounting,

the sliding element being coupled to the threaded element wherein movement of the threaded element applies a moving force to the hinge to, in use, cause the window sash mounted to the sash mounting to move between said open and closed positions."

It is asserted in the Office Action (Paper No. 6) that "Vetter teaches a window sash having an opening mechanism. The opening mechanism includes a threaded member 49, a drive mechanism 65, a threaded element 41 and a hinge 35. A locking bar is provided by member 60 shown in Figure 1. Vetter further teaches a lost motion device as described in column 3, line 35 to column 4 line 40."

It is asserted in the Office Action (Paper No. 6) that "Vetter teaches a window sash having an opening mechanism. The opening mechanism includes a threaded member 49, a drive mechanism 65, a threaded element 41 and a hinge 35. A locking bar is provided by member 60 shown in Figure 1. Vetter further teaches a lost motion device as described in column 3, line 35 to column 4 line 40." Vetter discloses that the casement window has a window frame (Vetter, column 2, line 43) and also that that there is a window sash (Vetter, *Id.* at line 44). A window frame and window sash are basic window terminology known in the art. Vetter also discloses that the window frame is of a conventional construction with the drawings illustrating a sill 15 and a pair of side jambs 16 and 17. (See also, Vetter, column 2, lines 45-47) Therefore, it is clear that in Vetter sill 15 is an element of the window frame. The window frame is said to be of "conventional construction," *i.e.*, it has a sill 15 as part of the construction. It is well known in the art that a window frame has four elements, namely a sill, side jambs and a top piece. Thus, the sill cannot also be the mounting of the operator.

Applicants' amended claims 1 and 2 include the limitation of a window frame, the window frame including a sill, a plurality of side jams and a top piece, which a skilled person knows to be of conventional construction as evidenced by Vetter, *i.e.*, it has a sill and side jambs. Therefore, claims 1 and 2 are not capable of being interpreted in a way that the sill can constitute the "mounting" of the operator. Accordingly, it is evident how the limitations of claims 1 and 2 preclude the sill 15 of Vetter from constituting the "mounting" because the sill along with the side jambs constitutes the "window frame."

Vetter is clearly distinguishable from Applicants' claimed invention. Vetter discloses a conventional window hinge mounted in a conventional manner to a basic window frame. It is mounted separately to the window operator. In contrast, Applicant's claimed invention defines a window operator, which as a mounting whereby the window operator is mounted to the frame element. The window hinge is connected to the mounting. Therefore, the hinge becomes mounted to the window frame element upon mounting of the window operator. This is not the case with Vetter where the hinge is mounted directly to the window frame element separate to the window operator mechanism.

Therefore, since Vetter does not disclose, teach or suggest all of Applicant's amended claims 1 and 2 respective limitations, Applicants respectfully assert that a *prima facie* rejection under 35 U.S.C. §102(b) has not been adequately set forth relative to Vetter. Thus, Applicant's amended claims 1 and 2 are not anticipated by Vetter. Additionally, the claims that depend directly or indirectly on claim 1, namely claims 3 -8, are also not anticipated by Vetter for the above same reason.

Accordingly, withdrawal of the 35 U.S.C. §102(b) rejections of claims 1-8 are respectfully requested.

## IV. Allowable Subject Matter

Applicant notes with appreciation the Examiner's assertion that claims 10-17 are allowable

Applicants respectfully assert that claims 1-8 and 10-17, as it now stands, are allowable for the reasons given above.

## CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely 1-8 and 10-17, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

## PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Final Office Action mailed on May 18, 2004, Applicants respectfully petition the Commissioner for a one (1) month extension of time, extending the period for response to Monday, September 20, 2004 (September 18, 2004 being a Saturday). The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of $55.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity. A duplicate copy of the fee transmittal sheet is enclosed.

Respectfully submitted,

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Dated: 09/20/2004 By _____

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I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Nedy Calderon 9/20/04

Nedy Calderon Date